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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

KATIE BIRCHARD,  Plaintiff,  v.  CITIBANK,  Defendant.	<b>COMPLAINT</b>  <b>CASE NO. 2:14-cv-00189-BSJ</b>    <b>JURY TRIAL DEMANDED</b>
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**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (hereinafter "TCPA").

**II. JURISDICTION**

2. Plaintiff's claim for violations of the TCPA arises under 47 U.S.C. § 227, respectively, and therefore involves a "federal question" pursuant to 28 U.S.C. § 1331.

**III. PARTIES**

3. Plaintiff, Katie Birchard ("Plaintiff"), is a natural person residing in Washington County, Utah..

4. Defendant, Citibank., (“Defendant”) is a corporation engaged in the business of collecting debts by use of the mails and telephone. Defendant regularly attempts to collect debts alleged due another.

#### **IV. FACTUAL ALLEGATIONS**

5. On information and belief, all calls made to Plaintiff’s telephone by Defendant were made using an “automatic telephone dialing system,” as that term is defined in 47 U.S.C. § 227(a)(1).

6. Within the last year, Defendant took multiple actions in an attempt to collect a debt from Plaintiff. Defendant’s conduct violated the TCPA in multiple ways, including the following:

7. Within the last year, Defendant intentionally used an automatic telephone dialing system to place multiple calls to Plaintiff’s cellular telephone without the prior express consent of Plaintiff.

8. As a result of the aforementioned violations, Plaintiff suffered and continues to suffer injuries to Plaintiff’s feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

9. To the extent Defendant’s actions, detailed above, were carried out by an employee of Defendant, that employee was acting within the scope of his or her employment.

#### **COUNT I: VIOLATION OF TELEPHONE CONSUMER PROTECTION ACT**

10. Plaintiff reincorporates by reference all of the preceding paragraphs.

11. The preceding paragraphs state a *prima facie* case for Plaintiff and against

Defendant for violations of the TCPA.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the TCPA;
- B. Actual damages or \$500 for each violation, whichever is greater, pursuant to 47 U.S.C. § 227(b)(3)(A)
- C. An award of three times the amount for which Defendant is found liable in paragraph "B," above, if it is found that Defendant willfully or knowingly violated 47 U.S.C. § 227(b).
- D. For such other and further relief as may be just and proper.

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

Dated this 13<sup>th</sup> day of March, 2014.

**TRIGSTED LAW GROUP, P.C.**

\_\_\_\_s/Joshua Trigsted\_\_\_\_\_  
Joshua Trigsted  
*Attorney for the Plaintiff*